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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,782	11/13/2000	Larry V. Pederson	44261-4	5537

7590 10/30/2003

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EXAMINER	
ROBINSON, DANIEL LEON	

ART UNIT	PAPER NUMBER
3742	8

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/710,782	PEDERSON ET AL.	
	Examiner	Art Unit	
	Daniel I. Robinson	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-36 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 10-12, 19-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman et al.(U.S.Pat.6,350,275) in view of the admitted prior art of Lam (A summary of Canadian Consensus Guidelines for the Treatment of Seasonal Affective Disorder). Vreman discloses a device for treating circadian rhythm disorders using LEDS that shows many of the features of the claimed invention including a mountable adapter Fig. 4), an adjustable arm(24), electrical contactors(40) but does not explicitly claim 2500-7500 LUX. The admitted prior art shows explicitly (page 10 Recommendations) that light intensities greater than 2500 LUX are preferred to treat seasonal disorder. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to adjust the intensity of Vreman to 2500-7500 LUX as taught by Lam because seasonal disorders can be treated.

Claims 4, 13-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman in view of the prior art as applied to claims 1-3, 10-12, 18-30 and 32-36 above, and further in view of the additional admitted prior art from Daylight Technologies. Vreman shows a programmable calculator (col. 6 lines 1-67). Vreman in view of the admitted prior art ie.

Canadian Guidelines does not show a calculator to modulate light exposure. Daylight Technologies shows a calculator (col. 9) to modulate light exposure. It would have been obvious to one of ordinary skill in the art of to use a calculator as taught by Daylight Technologies so as to prevent Jet Lag.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman in view of Canadian Guidelines as applied to claims 1-3, 10-12, 19-30, and 32-36 above, and further in view of Whitaker(U.S.Pat.5,197,941). Vreman in view of Canadian Guidelines does not show a first and second parts pivotally connected. Whitaker discloses a portable device for controlling circadian rhythm disorders. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a housing as taught by Whitaker with the device of Vreman in view of Canadian Guidelines because the lid 27, (hingedly associated with box 26) forms a reflective surface.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman in view of Canadian Guidelines as applied to claims 1-3, 10-12, 19-30, and 32-36 above and further in view of Gerdt(U.S.Pat.6,235,046). Vreman in view of Canadian Guidelines does not show a car driver using a light emitting device. Gerdt discloses a light source that shows a driver using the device. It would have been obvious to one of ordinary skill in the art to provide a light source to a driver because the device suppresses melatonin and therefore tiredness.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman in view of the prior art as applied to claims 4, 13-16 and 18 above, and further in view of Izawa et al.(U.S.Pat.5,820,625). Vreman in view of the prior art as applied to claims 4, 13-16 and 18 above. Izawa discloses a light depilating apparatus that shows a pause function (col. 3 lines 40-67). It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a pause function as taught by Izawa because the pause function allows for efficient use of the LED's.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vreman in view of the prior art as applied to claims4, 13-16 and 18, and further in view of Dimmick (U.S.Pat.6,167,648). Vreman in view of the prior art as applied to claims 4, 13-16 and 18 above, does not show total light output of the LED's of 50-500 candelas. Dimmick discloses an illuminated modular sign having adjustable quick release modules that shows (figs. 1-2) LED's with an output of 8-9 candelas. These LED's are arranged in an array of 18, for a total output of between 50-500 candelas. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use the light output as taught by Dimmick because the power consumption is less than 14 watts.

Applicant's arguments filed 8-11-2003 have been fully considered but they are not persuasive. Regarding applicant's argument that there is no motivation to combine Vreman and

Lam please note that Lam provides the motivation by dictating useable light levels. Regarding applicants argument that the references Vreman and Lam are not combinable since the combination would be large uncomfortable and injurious to the eyes note Lam page 10 "side effects" where Lam shows light 2500-10000 lux is safe for eyes. Regarding applicant's argument that Whitaker does not show a first member and a second member please see fig. 2 and cols. 4-5. Regarding applicant's argument that Gerdt does not show a driver please see cols. 2 and 4-5 show a driver receiving photonic medication, the motivation given is because the therapy is passive and the user may perform other tasks such as driving. As applicant admits Gerdt shows that tiredness will be suppressed in long distance car and truck drivers and that Gerdt teaches an eyeglass mounted device, it is this examiners opinion that a driver using an eye glass mounted device, while driving, constitutes being used or mounted in a vehicle compartment.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel l. Robinson whose telephone number is 703 306-9043. The examiner can normally be reached on M-F 5:30am-2:30pm.

The fax phone numbers for the organization where this application or proceeding is assigned are 872-9302 for regular communications and 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0861.

dlr
October 28, 2003

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700